

REMARKS

In response to the above-identified Office Action ("Action"), Applicants submit the following remarks and seek reconsideration thereof. Claims 3-6, 8, 9 and 11-20 are pending in the present application. Claims 3-6, 8 and 16-20 are allowed. Claims 9 and 13-15 are rejected. Claims 11 and 12 are objected to. In this response, claims 9 and 11 are amended, no claims are cancelled and no claims are added.

I. Claim Amendments

Applicants respectfully submit herewith amendments to claims 9 and 11. Claim 9 is amended to recite the elements of "a sound source object processor for receiving the background sound objects, the sound source objects and the audio scene information data" and "an object mixer for mixing the sound source objects processed by the sound source object processor with the background sound objects decoded by the audio decoding unit to output the results." The elements recited in amended claim 9 were previously recited in claim 11. Claim 11 is amended for consistency with amended claim 9. Applicants respectfully submit the amendments do not add new matter and are supported by the specification. In view of the foregoing, Applicants respectfully requests consideration and entry of the amendments to claims 9 and 11.

II. Claim Rejections – 35 U.S.C. §103

A. In the outstanding Action, claims 9 and 15 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,826,282 B1 issued to Pachet et al. ("Pachet"). Applicants respectfully traverse the rejections.

To establish a *prima facie* case of obviousness, the Examiner must set forth "some articulated reasoning with some rational underpinning to support the conclusion of obviousness." See KSR International Co. v. Teleflex Inc., 82 USPQ2d 1385, 1396 (2007). In combining prior art elements to render the claimed combination of elements obvious, the Examiner must show that the results would have been predictable to one of ordinary skill in the art. See Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103, Section III(D), issued by the U.S. Patent and Trademark Office on October 10, 2007.

In regard to independent claim 9, Applicants respectfully submit that Pachet fails to disclose or render predictable at least the elements of “the audio scene-synthesizing unit including a sound source object processor for receiving the background sound objects, the sound source objects and the audio scene information data and an object mixer for mixing the sound source objects processed by the sound source object processor with the background sound objects decoded by the audio decoding unit to output the results.” These elements were previously recited in claim 11. The Examiner indicates claim 11 includes allowable subject matter and would be allowable if amended to incorporate all the elements of claim 9. Applicants believe the amendments to claim 9 incorporate the allowable subject matter of claim 11 therefore claim 9 is in condition for allowance. Applicants respectfully request reconsideration and withdrawal of the rejection of claim 9 under 35 U.S.C. §103 in view of Pachet.

Claim 15 depends from claim 9 and incorporates the limitations thereof. Thus, for at least the reasons that claim 9 is not obvious in view of Pachet, claim 15 is further not obvious in view of the cited prior art. Applicants respectfully request reconsideration and withdrawal of the rejection of claim 15 under 35 U.S.C. §103 over Pachet.

B. In the outstanding Action, claims 13 and 14 are rejected under 35 U.S.C. §103(a) as being unpatentable over Pachet in view of U.S. Patent No. 6,704,421 issued to Kitamura (“Kitamura”).

Claims 13 and 14 depend from claim 9 and incorporate the limitations thereof. Thus, for at least the reasons previously discussed, Pachet fails to disclose or render predictable at least the elements of “the audio scene-synthesizing unit including a sound source object processor for receiving the background sound objects, the sound source objects and the audio scene information data and an object mixer for mixing the sound source objects processed by the sound source object processor with the background sound objects decoded by the audio decoding unit to output the results” as incorporated into claims 13 and 14 from claim 9. The Examiner has further not pointed to, and Applicants are unable to discern, a portion of Kitamura curing the deficiencies of Pachet with respect to these elements. Since each of the elements of claims 13 and 14 are not found within the cited prior art references, a *prima facie* case of obviousness may not

be established. Applicants respectfully request reconsideration and withdrawal of the rejection of claims 13 and 14 under 35 U.S.C. §103 over Pachet and Kitamura.

III. Allowable Subject Matter

Applicants acknowledge with appreciation the Examiner's allowance of claims 3-6, 8 and 16-20.

Applicants respectfully acknowledge the Examiner's indication that claims 11 and 12 would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims. As previously discussed, claim 9, from which claim 11 depends, has been amended to incorporate some of the allowable subject matter of claim 11. Applicants therefore respectfully request withdrawal of the objection on this basis and allowance of claims 11 and 12 at the Examiner's earliest convenience.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending, namely claims 3-6, 8, 9 and 11-20, are now in condition for allowance and such action is earnestly solicited at the earliest possible date. If there are any additional fees due in connection with the filing of this response, please charge those fees to our Deposit Account No. 02-2666. Questions regarding this matter should be directed to the undersigned at (310) 207-3800.

Respectfully submitted,

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CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being submitted electronically via EFS Web to the United States Patent and Trademark Office on October 22, 2008.

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